



**Rule and Interpretive/Policy Statement Review Checklist**  
(This form must be filled out electronically.)

This form is to be used when the current version of the rule(s) has/have not previously been reviewed. When reviewing an interpretive or policy statement, this document is to be used only if the review of the statement is not in conjunction with the review of a rule.

All responses should be **bolded**.

Document(s) Reviewed (include title): **Chapter 458-57 WAC (Estate and Transfer Tax Reform Act)**

Date last adopted/issued:

- **WAC 458-57-005/015/025—August 21, 1999**
- **WAC 458-57-035/045—October 8, 2000**

Reviewer: **Cindy Evans**

Date review completed: **May 6, 2002**

Briefly explain the subject matter of the document(s):

**WAC 458-57-005 (Nature of estate tax, definitions) The purpose of this rule is describe the nature of the estate tax and to set out the definitions of terms used in the chapter.**

**WAC 458-57-015 (Valuation of property, property subject to estate tax, how to calculate the tax) This rule assists taxpayers in determining the correct amount of estate tax due with their state return. It explains the necessary steps for determining the tax, and provides examples of how the federal estate tax unified credit relates to the amount that must be reported on the state return.**

**WAC 458-57-025 (Determining the tax liability of nonresidents) This rule discusses how property of nonresident decedents is taxed if that property is located within Washington at the time of death.**

**WAC 458-57-035 (Washington estate tax return to be filed – Penalty for late filing – Interest on late payments – Waiver or cancellation of penalty – Application of payment) This rule explains the due date for filing of the estate tax return, payment of the tax, when and how penalties are applied, and the circumstances under which penalties will be waived or cancelled.**

**WAC 458-57-045 (Administration of the tax – Releases, amended returns, refunds, heirs of escheat estates) This rule contains information on releases issued by the department when state estate taxes have been paid, when and how to amend an estate tax return, how to request a refund, and how to make a claim for escheat property.**

Type an “X” in the column that most correctly answers the question, and provide clear, concise, and complete explanations where needed.



**1. Public requests for review:**

YES	NO	
	X	Is this document being reviewed at this time because of a public (e.g., taxpayer or business association) request?

If “yes,” provide the name of the taxpayer/business association and a brief explanation of the issues raised in the request.

**2. Need:**

YES	NO	
X		Is the document necessary to comply with the statutes that authorize it? (E.g., Is it necessary to comply with or clarify the application of the statutes that are being implemented? Does it provide detailed information not found in the statutes?)
X <sup>1</sup>		Is the information provided in the document so obsolete that it is of little value, warranting the repeal or revision of the document?
X <sup>1</sup>		Have the laws changed so that the document should be revised or repealed? (If the response is “yes” that the document should be repealed, explain and identify the statutes the rule implemented, and skip to Section 10.)
X		Is the document necessary to protect or safeguard the health, welfare (budget levels necessary to provide services to the citizens of the state of Washington), or safety of Washington’s citizens? (If the response is “no”, the recommendation must be to repeal the document.)

Please explain.

**X<sup>1</sup> The current estate tax is referred to as a “pick-up” tax because it consists of the maximum amount of credit that has been allowed to the taxpayer’s estate under federal estate tax law for state death taxes. Chapter 83.100 RCW relies heavily on the federal estate and gift tax statutes and refers to several sections of the Internal Revenue Code (IRC) as it existed on January 1, 2001. In June 2001, Congress amended the IRC making significant changes to the federal estate tax program. The most significant changes are the reduction the graduated state death tax credit by 25% per year starting in 2002 and differences in the filing threshold. The federal credit under the current IRC is eliminated for deaths occurring after December 31, 2004.**

Although the Legislature has periodically updated Washington’s estate tax statutes to reflect the current IRC, the Legislature in 2001 declined to conform Washington’s estate tax statute’s to the IRC. The result is the rules do not:

- Recognize instances where an estate tax return must be filed with Washington but not with the federal government; and
- Address due dates, payment plans, and whether an extension is available or how to request an extension for those estates required to file state estate returns but not federal estate returns.



### 3. Related interpretive/policy statements, court decisions, BTA decisions, and WTDs:

Complete Subsection (a) only if reviewing a rule. Subsection (b) should be completed only if the subject of the review is an interpretive or policy statement. Excise Tax Advisories (ETAs), Property Tax Advisories and Bulletins (PTAs/PTBs), and Interim Audit Guidelines (IAGs) are considered interpretive and/or policy statements.

(a)

YES	NO	
	X	Are there any interpretive or policy statements that should be incorporated into this rule? (An Ancillary Document Review Supplement should be completed for each and submitted with this completed form.)
	X	Are there any interpretive or policy statements that should be cancelled because the information is currently included in this or another rule, or the information is incorrect or not needed? (An Ancillary Document Review Supplement should be completed for each and submitted with this completed form.)
	X	Are there any Board of Tax Appeals (BTA) decisions, court decisions, or Attorney General Opinions (AGOs) that provide information that should be incorporated into this rule?
	X	Are there any administrative decisions (e.g., Appeals Division decisions (WTDs)) that provide information that should be incorporated into the rule?

(b)

YES	NO	
		Should this interpretive or policy statement be incorporated into a rule?
		Are there any Board of Tax Appeals (BTA) decisions, court decisions, or Attorney General Opinions (AGOs) that affect the information now provided in this document?
		Are there any administrative decisions (e.g., Appeals Division decisions (WTDs)) that provide information that should be incorporated into the document?

If the answer is “yes” to any of the questions in (a) or (b) above, identify the pertinent document(s) and provide a brief summary of the information that should be incorporated into the document.

### 4. Clarity and Effectiveness:

YES	NO	
X		Is the document written and organized in a clear and concise manner?
X		Are citations to other rules, laws, or other authority accurate? (If no, identify the incorrect citation below and provide the correct citation.)
X <sup>2</sup>		Is the document providing the result(s) that it was originally designed to achieve? (E.g., does it reduce the need for taxpayers to search multiple rules or statutes to determine their tax-reporting responsibilities or help ensure that the tax law and/or exemptions are consistently applied?)
	X	Do changes in industry practices warrant repealing or revising this document?
X <sup>3</sup>		Do administrative changes within the Department warrant repealing or revising this document?



Please explain.

**X<sup>2</sup>** The rules currently provide the results originally intended, but unless revised there will likely be significant taxpayer confusion after September, 2002, because of the changes made by the federal Congress in the Economic Growth and Tax Relief Reconciliation Act of 2001. The estate tax rules should explicitly inform taxpayers that Washington's estate tax statutes do not follow the current IRC, Washington has different filing thresholds than the federal government, and that Washington will collect 100% of the state death tax credit and not the 75% as reflected in the current IRC.

**X<sup>3</sup>** The current rules state that if an estate files a request for an extension or a request for an installment payment plan with the federal government, the department will abide by the federal extension or payment plan. The department should revise the estate tax rules to address issues such as how to request installment payment arrangements and whether filing extensions are available for those estates that must file with the State of Washington but not with the federal government.

**5. Intent and Statutory Authority:**

YES	NO	
<b>X<sup>4</sup></b>		Does the Department have sufficient authority <b>to adopt</b> this document? (Cite the statutory authority in the explanation below.)
<b>X</b>		Is the document consistent with the legislative intent of the statute(s) that authorize it? (I.e., is the information provided in the document consistent with the statute(s) that it was designed <b>to implement</b> ?) If "no," identify the specific statute and explain below. List all statutes being implemented in Section 9, below.)
<b>X<sup>5</sup></b>		Is there a need to recommend legislative changes to the statute(s) being implemented by this document?

Please explain.

**X<sup>4</sup>** RCW 83.100.200 authorizes the department of revenue to make and publish rules concerning estate tax.

**X<sup>5</sup>** The department should consider requesting that Chapter 83.100 RCW be subject to RCW 82.32.110 (Examination of books or records—Subpoena—Contempt of court).

**6. Coordination:** Agencies should consult with and coordinate with other governmental entities that have similar regulatory requirements when it is likely that coordination can reduce duplication and inconsistency.

YES	NO	
	<b>X</b>	Could consultation and coordination with other governmental entities and/or state agencies eliminate or reduce duplication and inconsistency?

Please explain.



**The department has exclusive authority for making and administering these rules.**

**7. Cost:** When responding, consider only the costs imposed by the document being reviewed and not by the statute.

YES	NO	
	X	Have the qualitative and quantitative benefits of the document been considered in relation to its costs? (Answer “yes” only if a Cost Benefit Analysis was completed when the rule was last adopted or revised.)

Please explain.

**These interpretive rules impose no new or additional administrative burdens on businesses or other taxpayers that are not already imposed by the law.**

**8. Fairness:** When responding, consider only the impacts imposed by the document being reviewed and not by the statute.

YES	NO	
X		Does the document result in equitable treatment of those required to comply with it?
	X	Should it be modified to eliminate or minimize any disproportionate impacts on the regulated community?
	X	Should the document be strengthened to provide additional protection to correct any disproportionate impact on any particular segment of the regulated community?

Please explain.

**These rules clarify the application of Washington’s estate tax. Rules issued by the department are considered to be cost effective in educating the public and DOR personnel concerning statutory requirements and departmental interpretation of the statutes. They help to insure equitable treatment through consistent application of the underlying statutes.**

**These rules do not result in any disproportionate impacts that are not provided in law.**

**9. LISTING OF DOCUMENTS REVIEWED:** Use “bullets” with any lists, and include documents discussed above. Citations to statutes, interpretive or policy statements, and similar documents should include titles. Citations to Attorney General Opinions (AGOs) and court, Board of Tax Appeals (BTA), and Appeals Division (WTD) decisions should be followed by a brief description (i.e., a phrase or sentence) of the pertinent issue(s).

Statute(s) Implemented: **Chapter 83.100 RCW**

Interpretive and/or Policy Statements (e.g., ETAs, PTAs, IAGs): **None.**

Court Decisions: **None issued since the last revision of WAC 458-57.**



Board of Tax Appeals Decisions (BTAs): **Not applicable.**

Appeal Division Decisions (WTDs): **Not applicable.**

Attorney General Opinions (AGOs): **None.**

Other Documents (e.g., special notices or Tax Topic articles, statutes or regulations administered by other agencies or government entities, statutes, rules, or other documents that were reviewed but were not specifically relevant to the subject matter of the document being reviewed):

**None.**

#### 10. Review Recommendation:

<u>  X  </u>	<b>Amend</b>
<u>      </u>	<b>Repeal/Cancel</b> (Appropriate when action is not conditioned upon another rule-making action or issuance of an interpretive or policy statement.)
<u>      </u>	<b>Leave as is</b> (Appropriate even if the recommendation is to incorporate the current information into another rule.)
<u>      </u>	<b>Begin the rule-making process for possible revision.</b> (Applies only when the Department has received a petition to revise a rule.)

**Explanation of recommendation:** Provide a brief summary of your recommendation. If recommending that the rule be amended, be sure to note whether the basis for the recommendation is to:

- Correct inaccurate tax-reporting information now found in the current rule;
- Incorporate legislation;
- Consolidate information now available in other documents (e.g., ETAs, WTDs, and court decisions); or
- Address issues not otherwise addressed in other documents (e.g., ETAs, WTDs, and court decisions).

**This chapter of the WAC is necessary to explain the requirements and provisions of the Washington estate tax statutes. This chapter should be amended to recognize Washington's "decoupling" from the current federal IRC. The amendments should inform taxpayers that the threshold for filing a Washington estate tax return is lower than federal estate tax filing requirements, resulting in estates that only file with Washington but not with the Internal Revenue Service, and that Washington will collect 100% of the federal state death tax credit and not the reduced federal credit allowed. The rules should also be amended to address issues related to extensions for filing and payment plans for those estate that do not have to file federal estate tax returns.**



**11. Manager action:** Date: \_\_\_\_\_

\_\_\_\_\_ Reviewed and accepted recommendation

Amendment priority:

\_\_\_\_\_ 1  
\_\_\_\_\_ 2  
\_\_\_\_\_ 3  
\_\_\_\_\_ 4